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In Propria Persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION, a California for profit corporation; DOES 1 through 100, inclusive, Defendants.	CASE NO. 157 680 OPPOSITION OF MICHAEL WALTON TO PLAINTIFF'S MOTION FOR LEAVE TO COMPLETE DISCOVERY; REQUEST FOR SANCTIONS AGAINST MICHAEL AND SOLINA WALTON Date: December 16, 1994 Time: 9:00 A.M. Location: Dept. 1 Judge Gary W. Thomas Trial Date: May 18, 1995

Defendant Michael Walton objects to the bringing of this motion before this Honorable Judge. On January 1, 1994, this court appointed WILLIAM R. BENZ as special referee in this action for the purpose of supervising, hearing, and determining any and all motions and disputes relating to discovery. To date, Mr. Benz has spent a substantial amount of time (48.4 hours) actively refereeing the parties' discovery disputes and is in the best position to assess the merits of plaintiff's motion in context with plaintiff's prior use of discovery and the overall discovery history of this litigation.

Without waiving said objection, Michael Walton submits the

following opposition to plaintiff, Church of Scientology International's (hereinafter "CSI" or "SCIENTOLOGY") motion for leave to complete discovery.

I. INTRODUCTION

CSI and its attorney, Ms. Laurie Bartilson have submitted a motion and supporting declaration that is filled with erroneous information by way of unsubstantiated conclusions of law, misstated facts, misleading facts and outright fabrications. Many of these will be well sorted out at time of trial and to attempt to address them here does nothing but burden the court with having to read irrelevant " lawyer parry-thrust-parry smoke" and dilute the issues currently at hand.

The issues are:

1. Should CSI be allowed to reopen discovery after the "30 day rule" has gone into effect?
2. Should CSI be allowed to take Ms. Solina Walton's deposition?
3. Should CSI be allowed to inspect the residence of Solina and Michael Walton?
4. What was the nature of the meet and confer attempted by plaintiff prior to bringing this motion?

These issues will be addressed in reverse order.

II. MEET AND CONFER

On November 21, 1994, Mr. Walton received via U.S. mail a letter from attorney Bartilson dated November 17, 1994 regarding

the discovery being attempted by CSI. On that same day, November 21, 1994, Mr. Walton responded to that letter. See Exhibits A and B to Declaration of Michael Walton in support of this opposition (hereinafter "WALTON DECLARATION".

On Tuesday, November 22, 1994, Mr. Walton began a six day Thanksgiving vacation (three of those days were either weekend days or holidays). Upon Mr. Walton's return to his office on Monday, November 28, 1994, he received a letter from attorney Bartilson dated November 22, 1994 (Exhibit C to Walton Declaration). In addition to the letter, there was service of the instant motion under separate cover. And finally, there were two messages on the office answering machine both time stamped November 22. There were no other messages from Ms. Bartilson or anyone else representing CSI regarding this attempted discovery either before or after the ones received on November 22 and there were no telefaxes despite the notation on Ms. Bartilson's letters that there had been telefax transmission. This is not the first time Ms. Bartilson has purported to transmit documents to Walton's office by telefax which are never received.

The next day, November 29, Mr. Walton responded to Ms. Bartilson's letter of November 22 . (Exhibit D to Walton Declaration). An examination of the dates of these correspondences readily show that there was no refusal to meet and confer. If anything, such an examination shows that Ms. Bartilson has misrepresented to the court the true and correct development of events relating to the "meet and confer" requirement and if

sanctions are ordered, they should be against Ms. Bartilson and Scientology for such misrepresentations and for a bad faith "attempt" to meet and confer.

III. INSPECTION OF WALTONS' RESIDENCE

CSI noticed a demand for inspection of the Walton's residence to take place on November 1, 1994. The Waltons timely objected by way of separate documents. (Exhibits E and F to Walton Declaration). The basis for these objections was not only that the discovery was not permitted because of the 30 day rule but also that the inspection was irrelevant, burdensome and oppressive, violative of right to privacy, harassive and not calculated to lead to the discovery of admissible evidence.

This lawsuit is about money damages. Plaintiff has not yet proven that it is entitled to money damages from this defendant or any other defendant associated with this litigation, yet it attempts at every opportunity to conduct asset checks of the defendants. To date, the referee, Mr. Benz, has disallowed CSI's attempts to discover the value of the assets of this defendant. The current value of the Walton residence has no relevance to this lawsuit.

CSI has no judgment against Mr. or Ms. Walton nor any legitimate claim to know the value of any of Waltons' assets. **Such has been the consistent ruling from the discovery referee.** Even in the unlikely event that CSI should obtain a money judgment against the Waltons at some time in the future, the value of the family home would only become relevant if the Waltons were unable to

satisfy such a judgment by other means.

The request by CSI to "inspect" the Walton residence is a simple act of harassment and part of Scientology's vicious litigation technique. In the language of the cult of Scientology it is called "Fair Game". One of the directions of "Fair Game" is to "sue". One of Scientology's litigation techniques it calls, "Dev-T", short for "developed traffic" which means "unusual or unnecessary traffic" or, as a verb, to generate such unusual and unnecessary traffic; or to cause someone to do unnecessary work. A complete description and authentication of this technique and Scientology litigation policies are contained in a declaration prepared and executed by Gerald Armstrong on November 16, 1994. (Exhibit G to the Walton Declaration).

IV. DEPOSITION OF SOLINA WALTON

CSI noticed Solina Walton's deposition for November 15, 1994. On October 17, 1994, Ms. Walton served objections to the taking of her deposition along with the objections to the demand for inspection of her residence. CSI claims it never received the objections. See Exhibit F to Walton Declaration. Ms. Walton objected to the taking of her deposition based upon the fact that discovery had closed pursuant to the 30 day rule. Had plaintiff timely noticed Ms. Walton's deposition, no objection would have been made.

V. REOPENING DISCOVERY

The question of reopening discovery at this time is addressed in Ms. Walton's Demurrer and Motion to Strike scheduled to be heard

on the same date as the instant motion. It is the Waltons' position that CSI waited too long to name Ms. Walton as a Doe defendant. On September 13, 1994, just 15 days before the date for trial of this matter and two weeks after discovery cut off, plaintiff served Solina Walton as DOE II to the instant action. **Significantly, it was also one day after attorney Bartilson, in a hostile and threatening manner, told defendant Michael Walton that CSI would never allow this case to settle against Mr. Walton and would only make things worse for him unless Mr. Walton would agree to "put pressure on your friend" (defendant Armstrong) to capitulate in the case that underlies the instant one; i.e. the Los Angeles breach of contract case (now consolidated with this one). Mr. Walton declined to interfere in the underlying case and the next day Ms. Walton was named as a Doe defendant despite CSI's actual knowledge of her interest in the Fawn Drive residence for since the outset of this litigation.** CSI waited until all discovery was completed and when there was no more "pressure" that they could put on the parties, they moved to continue the trial date (completely reversing their original argument that the Marin Action should not be coordinated with the Los Angeles Actions) and are attempting to use the Doe statute simply as a way to further harass and "put pressure on" the parties. If CSI had had a good faith belief that Ms. Walton should have been a defendant in this action they had ample opportunity to name her at a time when she could have participated in the substantial and hotly litigated discovery which occurred over the last year and one-half.

CSI should not be allowed to reopen discovery after such an unreasonable delay in the naming of a Doe defendant.

C.C.P. Section 2024(e)1-4 provides in relevant part:

> "On motion of any party, the court may grant leave...to reopen discovery after a new trial date has been set...In exercising its discretion..., the court shall take into consideration any matter relevant to the leave requested, including, but not limited to, the following:
>
> (1) The necessity and the reasons for the discovery.
>
> (2) The diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier.
>
> (3) Any likelihood that permitting discovery...will prevent the case from going to trial on the date set, or otherwise interfere with the court calendar, **or result in prejudice to any other party.**
>
> (4) The length of time that has elapsed between any date previously set, and the date presently set, for the trial of the action." (Emphasis added).

At all times since the filing of this lawsuit, Ms. Walton has resided with her husband, defendant Michael Walton. Plaintiff can offer no legitimate reason for delaying the naming of Ms. Walton to the lawsuit until two weeks before the trial was scheduled to begin.

Allowing Scientology to file a Doe amendment at this juncture

puts all parties back to "square one" with respect to the discovery process. Ms. Walton's interests and position are different from each of the other parties. The discovery aspect of this matter has required an enormous expenditure of attorney time and money. As the court is well aware, these considerations become extremely important in the litigation arena. Allowing the naming of a DOE defendant at this juncture would put an enormous strain on the resources of the other defendants and it is a tactic the plaintiff should be prohibited from employing. That the discovery period has been a particularly intense and highly contested one is exemplified by the large number of hours the court appointed Special Referee has spent in connection with this matter. It is unfair and against court policy to allow plaintiff to benefit from its lack of diligence to the prejudice of **all the other parties.**

It is also unlikely, given the history of this litigation, that Ms. Walton would be able to properly and thoroughly prepare her defense in time for the May 18, 1995 trial date. In the event that Ms. Walton should file a cross-complaint it is almost certain that the trial date would have to be continued.

VI. THE INEQUITY OF ALLOWING LITIGATION TO BE USED TO "BULLY"

It was no coincidence that Ms. Walton was served the day after Mr. Walton was threatened by Ms. Bartilson. Scientology has a long established history and reputation for abusive litigation tactics. (See, e.g. Exhibit H of Walton Declaration, "Litigation Noir, California Lawyer, December 1994). Page 41, column 1, full paragraph 3 of Exhibit H contains a reference to claims made by the

Honorable James M. Ideman regarding Scientology's litigation tactics. Judge Ideman's declaration is an exhibit to the Armstrong declaration (Ex. G) at Bates-stamped pages 700791 to 700794. It is no secret that litigation is an enormously costly affair and that the price of justice can economically devastate a citizen even under the best of circumstances. Scientology has $400,000,000.00 at its disposal (See Exhibit I to Declaration of Walton Declaration) and the mindset that any kind of destruction of its enemy, including economic, by any means possible, including the use of the legal system, (See Exhibit G & H to Walton Declaration) is a victory. Such a combination creates an extremely dangerous situation. It is a situation in which the judicial system is manipulated into being a Scientology tool for the destruction of Scientology's perceived enemies.

A brief review (if such a task is possible) of this Court's file in this matter will reveal that the parties had ample opportunity to complete (and did complete) discovery before the cut-off date. Because of Scientology's history of abusing the court system, it should be held to the strictest and highest standards. Discovery should not be reopened and Scientology should be urged to "put on its case" as soon as possible. To do otherwise severely prejudices all other parties.

Dated: December 8, 1994

Michael Walton

PROOF OF SERVICE BY PERSONAL DELIVERY
STATE OF CALIFORNIA, COUNTY OF MARIN

I am a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is ~~715 Sir Francis Drake Boulevard, San Anselmo, CA 94960~~. BACKUS COURIER CO., 929 Sir Francis Drake Kentfield, CA

On December 9, 1994, I served the within DEFENDANT MICHAEL WALTON'S OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO COMPLETE DISCOVERY & REQUEST FOR SANCTIONS AGAINST MICHAEL AND SOLINA WALTON; EVIDENCE IN SUPPORT OF OPPOSITION on the interested parties by ~~placing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States mail at San Anselmo, California addressed as follows:~~ HAND DELIVERY

Laurie J. Bartilson
Andrew Wilson
Wilson, Ryan & Campilongo
115 Sansome, Suite 400
San Francisco, CA 94104

Ford Greene, Esq.
711 Sir Francis Drake
San Anselmo, CA 94960

Executed on December 9, 1994 at San Anselmo, California.
I declare under penalty of perjury that the foregoing is true and correct.

_____

MICHAEL WALTON CABAR #97947
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(415) 456-7920
In Propria Persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION, a California for profit corporation; DOES 1 through 100, inclusive, Defendants.	CASE NO. 157 680 DECLARATION OF MICHAEL WALTON IN OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO COMPLETE DISCOVERY; REQUEST FOR SANCTIONS AGAINST MICHAEL AND SOLINA WALTON Date: December 16, 1994 Time: 9:00 A.M. Location: Dept. 1 Judge Gary W. Thomas Trial Date: May 18, 1995

I, Michael Walton, declare under penalty of perjury under the laws of the State of California that the foregoing recitation is true and correct.

(1) Declarant is a defendant in this lawsuit and an attorney duly licensed to practice in the State of California.

(2) On November 21, 1994, declarant received via U.S. mail a letter from Scientology's attorney, Laurie Bartilson dated November 17, 1994 regarding the discovery which is the subject of this motion. On that same day, November 21, 1994, declarant responded to that letter. True and correct copies of those letters are attached hereto as Exhibits A and B, respectively.

(3) On Tuesday, November 22, 1994, two days before Thanksgiving, declarant began a six day Thanksgiving vacation (three of those days were either weekend days or holidays). Upon declarant's return to his office on Monday, November 28, 1994, he received a letter from attorney Bartilson dated November 22, 1994 (a true and correct copy of which is attached as Exhibit C). In addition to the letter, there was service of the instant motion under separate cover. And finally, there were two messages on the office answering machine both time stamped November 22, 1994. There were no other messages from Ms. Bartilson or anyone else representing CSI regarding this attempted discovery either before or after the ones received on November 22, 1994.

(4) There were no telefaxes despite the notation on Ms. Bartilson's letters that there had been telefax transmission. On prior occasions, Ms. Bartilson has purported to transmit documents to Walton's office by telefax which are never received.

(5) The next day, November 29, 1994, declarant responded to Ms. Bartilson's letter of November 22, 1994. A true and correct copy of that letter is attached hereto as Exhibit D). An examination of the dates of these correspondences readily show that the was no refusal to meet and confer. If anything, such an examination shows that Ms. Bartilson has misrepresented to the court the true and correct development of events relating to the "meet and confer" requirement.

(6) Declarant never intended , nor did he, attempt to avoid a meet and confer with Scientology attorneys at any time since the

commencement of this litigation.

(7) Attached hereto as Exhibit E is a true and correct copy of Michael Walton's Response to Plaintiff's Demand for Inspection of Real Property.

(8) Attached hereto as Exhibit F is a true and correct copy of Solina Walton's Response to Plaintiff's Demand for Inspection of Real Property and Objection to Deposition of Solina Walton.

(9) Attached hereto as Exhibit G is a true and correct copy of the Declaration of Gerald Armstrong dated November 16, 1994.

(10) Attached hereto as Exhibit H is a true and correct copy of "Litigation Noir", an article from the December 1994 issue of California Lawyer magazine.

(11) Attached hereto as Exhibit I is a true and correct copy of "Scientologists Report Assets of $400 Million", an article dated October 22, 1993, which appeared in The New York Times newspaper.

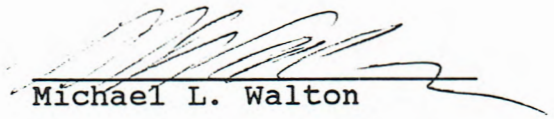
(12) On or about September 12, 1994, declarant had a telephone conversation with Ms. Bartilson in which Ms. Bartilson, in a hostile and threatening manner, told declarant that CSI would never allow this case to settle against Mr. Walton and would only make things worse for him unless Mr. Walton would agree to "put pressure on your friend" (defendant Armstrong) to capitulate in the case that underlies the instant one; i.e. the Los Angeles breach of contract case (now consolidated with this one). Mr. Walton declined to interfere in the underlying case.

The facts hereinabove recited are personally known to declarant and if called upon to testify, declarant could and would

competently do so. I declare under penalty of perjury under the laws of the State of California that the foregoing recitation is true and correct.

Dated: December 8, 1994

Place: San Anselmo, CA



Michael L. Walton